

Congress of the United States
Washington, DC 20515

June 8, 2018

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, DC 20202

Dear Secretary DeVos:

We write today regarding the Department of Education's ("Department") decision to withhold the Bureau of Indian Education's (BIE) fiscal year 2017-2018 Title I, Part A (Title I) funding.

As part of the federal trust responsibility to American Indians, the BIE has a duty to provide American Indian children with a high-quality education that honors tribal cultures and traditions. According to the National Indian Education Association, "the federal trust responsibility includes a fiduciary obligation to provide parity in access to all American Indian and Alaska Native students, regardless of where they attend school."¹

Currently, BIE supports 183 elementary and secondary schools and dormitories in 23 states. In addition to funding from the Department of Interior, BIE receives funding from the Department in accordance with the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA). Under ESEA, Title I funding is allocated to schools and school districts to help low-income students succeed in K-12 education and beyond. This funding is a vital resource to improve educational opportunities and outcomes for more than 40,000 American Indian and Alaska Native children attending BIE schools, including students at Chemawa Indian School in Salem, Oregon.

In April 2018, the Department announced a tribal consultation regarding the BIE's oversight and administration of federal programs funded through the Department. The Department did not publish notice of the consultation in the Federal Register, as required.² BIE was not in attendance and was not included in the planning of the consultation.³ In addition, the announcement for this consultation stated that the Department is withholding \$1.6 million in Title I funding because the BIE missed the October 2, 2017 deadline for the ESSA negotiated rulemaking committee.⁴

¹ <http://www.niea.org/wp-content/uploads/2016/02/NIEAs-Written-Testimony-for-the-Department-of-Education-Tribal-Consultation-on-the-Bureau-of-Indian-Education.pdf>

² <https://www.politico.com/newsletters/morning-education/2018/05/03/continued-friction-over-indian-education-funding-202291>

³ <http://www.niea.org/wp-content/uploads/2016/02/NIEAs-Written-Testimony-for-the-Department-of-Education-Tribal-Consultation-on-the-Bureau-of-Indian-Education.pdf>

⁴ <https://www.politico.com/newsletters/morning-education/2018/05/03/continued-friction-over-indian-education-funding-202291>

On October 26, 2017, the BIE completed the required action by submitting the names of the nominees for the negotiated rulemaking committee.⁵ Further, on April 17, 2018, the BIE announced the proposed members to form the negotiated rulemaking committee.⁶ The Department, however, continues to withhold BIE's Title I funding.


The Department should be working with the BIE to adhere to the federal trust responsibility to provide all American Indian students the opportunity to learn and achieve academic success. We are concerned that the withholding of BIE's Title I funding will affect the BIE's ability to provide a high-quality education to American Indian students. In Oregon, American Indian students face many education challenges, including low graduation rates, low standardized test scores, and a widening achievement gap.⁷ Additionally, we are also concerned about the Department's lack of communication and consultation with the BIE and tribal leaders. To address our concerns, we request your response to the following questions:


1. Why is the Department continuing to withhold the BIE's Title I funding?
2. How can the Department work with the BIE to meet the federal requirements of the Title I program?
3. How has the Department engaged with BIE representatives on the tribal consultation process?
4. How is the Department working to strengthen consultation with BIE and tribal leaders to deliver federal resources and programs to American Indian students?

Thank you for your prompt attention to this issue; we look forward to hearing from you.

Sincerely,


Suzanne Bonamici
Member of Congress


Ron Wyden
U.S. Senator


Jeffrey A. Merkley
U.S. Senator


Kurt Schrader
Member of Congress


Peter DeFazio
Member of Congress


Earl Blumenauer
Member of Congress

⁵ Ibid

⁶ <https://www.federalregister.gov/documents/2018/04/17/2018-07922/bureau-of-indian-education-standards-assessments-and-accountability-system-negotiated-rulemaking>

⁷ [http://www.oregon.gov/ode/reports-and-data/researchbriefs/Documents/Internal/American Indian Alaska Native Students In Oregon.pdf](http://www.oregon.gov/ode/reports-and-data/researchbriefs/Documents/Internal/American%20Indian%20Alaska%20Native%20Students%20In%20Oregon.pdf)